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இலங்கை சட்ட உதவி ஆணைக்குழு
Legal Aid Commission of Sri Lanka



Human Rights



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Ministry of Justice



Human Rights

Legal Aid Commission of Sri Lanka

Contribution By
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Message from The Chairman

The Legal Aid Commission was established through Act No. 27 of 1978. Legal Aid Commission is a statutory legal institution which provides free legal consultations to an underprivileged community through a team of qualified lawyers. At the Commission, we provide legal assistance in multiple areas such as human rights, child rights, women's rights, elders' rights, family law, labor law to name a few. We have extended our scope of aid for awareness and guidance to provide relief in as many civil areas of law as possible.

Even though there are many organizations that deal with violation of rights, Legal Aid Commission is the only institution with the legal power to pursue legal proceedings as a statutory entity of the Sri Lankan Government.

The Legal Aid Commission provides legal consultations irrespective of income, social status, race, nationality, religion, gender or age. We are proud to serve deserving yet marginalized and vulnerable individuals with legal aid that has helped thousands island-wide obtain the equal access to justice.

I hope this series of booklets will further empower communities, officials and individuals to understand the law, to be aware of their rights and obligations, and to know that they can seek assistance from the committed team of legal officers of the Legal Aid Commission.

Rohan Sahabandu - PC
Chairman, Legal Aid Commission

The Legal Aid Commission of Sri Lanka

The Legal Aid Commission of Sri Lanka (LAC) was established by the Act No 27 of 1978, to provide legal assistance to vulnerable and needy communities and individuals whose access to justice is restricted or curtailed by social status, economic status, nature of their gender, cast, age or other criteria.

It is considered the foremost from amongst other institutions and organizations that provide legal aid, mainly due to its sustainability and stability.

The Legal Aid Commission is present in all 9 provinces across Sri Lanka in 84 centres educating, creating awareness and providing legal aid to all without prejudice. It consists of over 120 permanent legal officers and over 1000 panel lawyers from the regional Bar Associations.

The Commission's vision is to create a society where all deserving Sri Lankans must have equal access to justice.

The Legal Aid Commission has undertaken many ambitious projects to achieve this objective. The Act states that the Legal Aid Commission's mission is to provide Legal Aid to all the "Deserving Persons" in the Country.

Our Vision

EQUAL ACCESS TO JUSTICE

To create a society where all deserving Sri Lankans irrespective of their economic or social status, gender, caste, creed or nationality or the disabled have equal access to justice.

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What are Human Rights?

“ a set of rights that could be enjoyed by all human beings regardless of their ethnicity, color, race, sex, social status or place of birth. ”

Human rights is a series of rights accepted as an integral part of the natural life of the human race and essential for integrity and establishment of humanity. Many of us believe that these rights cannot be created and all human beings inherit these rights by birth.

These rights are essential for the sustainability and integrity of human life. As such, these rights could be denoted as a set of rights that could be enjoyed by all human beings regardless of their ethnicity, color, race, sex, social status or place of birth.

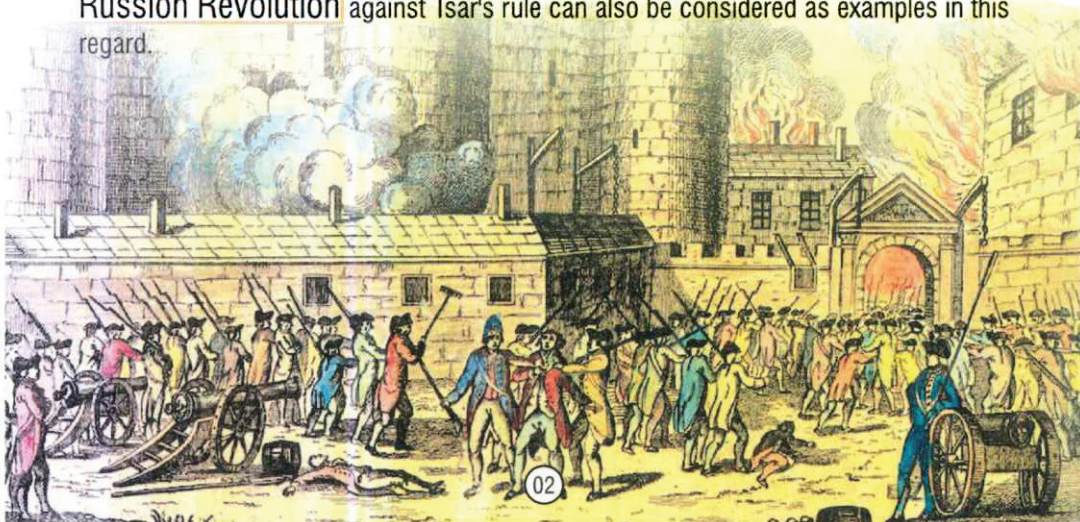
History of Human Rights Laws

All religious teachings including Buddhism, Hinduism, Christianity and Islam prohibits anti social activities such as manslaughter, rape, robbery, physical as well as mental torture and categorized them as bad deeds. The Mahawansa tells us a story of a king who gave a death sentence to his son for killing a calf. This historical incident illustrates the importance given to the rights of the animals during ancient times.

As society became more complex with time, the strength of such bonds among people started to decrease. This situation made the protection of law necessary for the well being of society and paved the way to the thought process of “modern human rights with the protection of law” from the West.

The **Magna Carta** agreement, which was signed as a result of a great riot in the power struggle between King John and the Parliament of Great Britain is considered as a milestone in the Human Rights journey. This agreement eliminated the uncontrollable powers of the king such as arresting, detaining, imprisoning and deporting people illegally. Also, the agreement ensured that the civil rights of people are protected. The **American Revolution** is also considered as another milestone in the history of Human Rights.

The conversion of American governance from slavery to free governance served as an example for other States to obtain freedom from slavery. The toppling of the monarchy in France through **French Declaration** and the Constitution of Russia as a result of **Russion Revolution** against Tsar's rule can also be considered as examples in this regard.



International Declarations of Human Rights

Universal Declaration on Human Rights

The General Assembly of the United Nations released the Universal Declaration of Human Rights (UDHR) in 1948. The declaration includes the dignity of human life and the principles of fundamental rights essential for the survival of human beings. UDHR is the contemporary international law on Human Rights. When a country ratifies the concepts of this declaration, the UDHR becomes a law of that country. Most human rights and related provisions embedded in the Constitution of many countries originated from the UDHR.

International Covenant on Economic, Social and Cultural Rights

Rights such as, right to education, right to proper employment, right to healthcare services and right to participate in cultural activities are considered as Economic, Social and Cultural Rights.

Covenant on Civil and Political rights

The right to live, the right to be free from slavery, the right to be considered equal before the law, the right to be free from arbitrary arrest, freedom of speech, and the right to a personal life and legal occupation come under the civil and political rights.

How do they Apply to Us?

The Sri Lankan Government ratified the International Covenant on Civil and Political Rights (ICCPR) and its Optional Protocols in the years 1980 and 1997 respectively. If the personal rights of a person are ratified, permission is given to such individuals to make a direct appeal to the Human Rights Commission in Geneva and this permission is considered as a special aspect of this instrument. However, the signing of a covenant does not mean that the covenant becomes a law of a signatory country. It must be passed as a law in the legislature of the country for a ratified convention to be applicable as a law in that country.

“ In the case of **Singarasa vs Attorney General**, the Supreme Court ruled that the judgement given by the International Human Rights Commission is not binding on the Supreme Court. ”

The plaintiff of the case mentioned above known as Singarasa was not satisfied with the judgement given by the Court of Appeal and he filed a personal plaint to the Human Rights Commission in Geneva based on the first optional protocol of International Covenant on Civil and Political Rights.

The Human Rights Commission considered this case and decided to recommend to release him or to go for a re-hearing as there was no impartial inquiry conducted on behalf of the plaintiff. However, as the Human Rights Commission in Geneva was not given any legal authority by our Constitution, the Supreme Court decided not to implement the recommendation.

After the case of Singarasa, the Sri Lankan parliament passed the resolution to make ICCPR a part of the law of Sri Lanka (Act No. 56 of 2007).

A country should have a court system with relevant authority to implement laws related to the protection of Human Rights. Further, there shall be an institution to create awareness on Human Rights and methods to deal with Human Rights violations encountered by the public. It is the duty of lawyers to assist people to understand the law in relation to the protection of rights as well as to provide guidance to obtain judicial remedies for right violations.

What are the Human Rights Protected by the Constitution?

The Constitution of 1978 included human rights systematically in an applicable manner. The Articles 10, 11, 12, 13, 14, 15 and 126 of Chapter III and the language rights prescribed in Articles from 18 to 25 in the same chapter are very important in this regard.

Equality

Article 10

“Every person is entitled to freedom of thought, conscience and religion, including the freedom to have or to adopt a religion or belief of his choice.

Article 11

“No person shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 12 (1)

“All persons are equal before the law and are entitled to the equal protection of the law.

Article 12 (2)

“No citizen shall be discriminated against on the grounds of race, religion, language, caste, sex, political opinion, place of birth or any one of such grounds.

However, there are exceptions in terms of language requirement for public service and the advancement of women, children and persons with disabilities.

Article 14 (1)

- “Every citizen is entitled to –
- the freedom of speech and expression including publication;
 - the freedom of peaceful assembly;
 - the freedom of association;
 - the freedom to form and join a trade union;
 - the freedom, either by himself or in association with others, and either in public or in private, to manifest his religion or belief in worship, observance, practice and teaching;
 - the freedom by himself or in association with others to enjoy and promote his own culture and to use his own language;
 - the freedom to engage by himself or in association with others in any lawful occupation, profession, trade, business or enterprise;
 - the freedom of movement and of choosing his residence within Sri Lanka; and
 - the freedom to return to Sri Lanka.

Rights Related to Due Process

Article 13 (1)

- “No person shall be arrested except according to procedure established by law. Any person arrested shall be informed of the reason for his arrest.

Article 13 (2)

- “Every person held in custody, detained or otherwise deprived of personal liberty shall be brought before the nearest judge immediately. No person shall be detained continuously without a court order.

Article 13 (5)

- “Every person shall be presumed innocent until he is proved guilty.

Article 13 (6)

- “No person shall be punished for an offence by a law that does not exist at the time of the offence committed.

Protection Against Cruelty

Article 13 (3)

“ Any person charged with an offence shall be entitled to be heard, in person or by an attorney-at-law, at a fair trial by a competent court.

Risk of Life

Article 13 (4)

“ No person shall be punished with death or imprisonment except by order of a competent court, made in accordance with procedure established by law. However, a person can be detained as per the law for a fair inquiry.

Exception to Human Rights

Article 15

“ As per this Article, the government can restrict the above mentioned freedoms for the following reasons;

- National security and national harmony
- Racial and religious harmony
- Public health, public order
- National economy

Language Rights

Article 18 (1)

“ The Official Language of Sri Lanka shall be Sinhala.

Article 18 (2)

“ Tamil shall also be an official language (Refer the 13th Amendment to the Constitution Section 2 (b))

Authority on Human Rights

Article 126 (1)

“The Supreme Court shall have sole and exclusive jurisdiction to hear and determine the infringement or imminent infringement of any fundamental right.

Article 17

“If a person faces infringement or imminent infringement of fundamental right by **executive** or **administrative** action, such person is entitled to claim reparation.

Article 126 (2)

“If there is any infringement of the fundamental right of a person, such person shall apply in writing to the Supreme Court within one month of infringement by himself or through his attorney.

As such, these instruments consist of huge number of rights including the right of all the people to be treated equally with equal rights, right of not being discriminated on the basis of ethnicity, race, sex, language or religion, right to live, right to be free from slavery, right to be free from torture or cruel, inhumane or derogatory treatment or punishment, right to get law protection, right for a due process in the event of right violations, right to be free from arbitrary arrest, right to appear in a court during case hearings, right to return to one's country, right to have a nationality, right to marriage and to form a family, right to have assets, right to have a free opinion, right to follow a religion of choice, right to have a legal occupation, and, right to receive services including food, clothing, shelter, healthcare and housing facilities.

What are the Limitations of the Human Rights Laws?

Even though the Constitution of 1947 does not mention anything regarding the fundamental human rights in Sri Lanka, sufficient efforts had been taken to create a proper balance in terms of rights of the citizens through Article 29(2) of the Constitution. The Article prohibits law making with the purpose of controlling any particular race or religion.

Even though the Constitution of 1972 consisted of a chapter dedicated to fundamental rights, the Constitution did not include any provision to make legal proceedings in the event of violation of a fundamental right. Hence, the benefits that could be obtained through application were minimal in this Constitution.

- They are subject to interpretation
- Some rights are not clear in the Constitution
- No remedies mentioned in the law for violators

How can they be Violated?

How to know whether a fundamental right was infringed

A senior police officer carried out a search operation along with other police officers with the purpose of tracing drugs. Once the search operation was over, they started to travel to the station by a jeep. On their way, the jeep broke down and they had to continue their journey by walk. During this time, a junior police officer asked a question from his senior officer.

Sir, in which circumstance will I be able to know that my fundamental rights are infringed?

The senior officer smiled and walked, wondering how he would answer that question. There was a big river crossing on their way. They started to walk across the river. The senior officer asked, "you wanted to know how you can realize that your fundamental rights are infringed, didn't you?" The junior officer nodded. Suddenly, the senior officer pushed the junior officer into the river. The junior officer was confused due to this unexpected incident. However, he did not express any sign of this out of fear.

When they reached the middle of the river, the senior officer again pushed the junior officer and kept his head submerged for around 15 seconds. The junior officer said this after resurfacing, "I feared when you pushed me into the river. I was not able to breathe. I felt like I was struggling for my survival, also I understood that my fundamental rights are infringed here".

When an individual couldn't enjoy the freedom to live without fear or intimidation, their fundamental rights are violated.

What Remedies can One Seek?

In any circumstance where an officer of executive or administrative branch of the governance acts in a manner that results in the following,

- Prohibiting religious freedom
- Prohibiting lawful occupation or entrepreneurship
- Not treated equally by law
- Unlawful arrest
- Unlawful detention
- Torture
- Arbitrary arrest
- Punishing without a court judgment
- Use of Retrospective laws

Or upon the infringement of any fundamental rights, it has to be brought to the notice of any of the regional centres of the Legal Aid Commission in Sri Lanka to initiate legal proceedings as the time is limited for one month from the date of such infringement.

It is also important to make a complaint to the Human Rights Commission of Sri Lanka. This would be helpful in the relaxation of the social time limit to a certain extent.

Telephone No. 011-2505580

Address - To Human Rights Commission of Sri Lanka,
No. 14, L. A. De Mel Mawatha,
Colombo -04.

Who can Help?

Ombudsman or Parliamentary Commissioner for Administration

As per the Human Rights Commission Act No 21 of 1996, offices of the Human Rights Commission are opened in the main towns of Sri Lanka. The head office is located at No. 108, Barns Road, Colombo 07. If the fundamental rights are infringed or are about to be infringed, the person affected or a person representing the affected person shall make a complaint to the Human Rights Commission. There is no special requirement to make such a complaint and filling the designated form given by the Commission is sufficient in this regard.

If any person's fundamental rights or language rights are infringed, such person shall make a complaint of the infringement to the Human Rights Commission within three (03) months from the date of infringement. The telephone numbers of the Head Office of the Human Rights Commission are - 011 694925 and 0112 685980.

The position of an Ombudsman was created by Act No. 17 of 1981 as amended by Act No. 26 of 1994.

Complaints related to infringement of fundamental human rights or language rights or any other rights guaranteed by the Constitution could be made to the Ombudsman. The Ombudsman directs the relevant authority to provide a report regarding the complaint made. According to the report, if there are any infringements, recommendations will be given. Even though there is no specified time frame to make a complaint, the complaints shall be made within a reasonable time.

The office of the Ombudsman is located at:
1st Floor, No.14, R.A.De Mel Mawatha, Colombo 04.
Telephone No. 011 2588982

Where any person alleges that any such fundamental right or language right protected by the Constitution relating to such person has been infringed or about to be infringed he may himself or by an attorney-at-law on his behalf, within one month or if any fundamental human right or a language right about to be infringed, a person can inform such infringement to Supreme Court or to Hon. Chief Justice in writing. Once the document is assessed and found that there is a necessity for legal proceedings, the Chief Justice will refer the case to the Legal Aid Commission.

Parliament Select Committee

A petition regarding infringement or imminent infringement of fundamental human rights or language rights could be submitted to the parliament speaker. This petition shall be submitted through a minister only. If the speaker is satisfied that a fundamental or language right violation occurred, the complaint shall be forwarded to the parliament select committee.

Human Rights Council of the United Nations

Parties that are not satisfied with the Supreme Court decisions, can submit an appeal to the Human Rights Council of the United Nations located in Geneva. Even though Sri Lanka is not bound to accept the judgement made by the Human Rights Council, there is a moral responsibility to consider such judgements.

Legal Aid Commission

Any party who needs legal advice or representation can seek the support of the Legal Aid Commission.

Human Rights Commission

However, as per the Human Rights Commission Act No. 21 of 1996, if any person files a petition to the Human Rights Commission, the Supreme Court will relax the requirement to calculate the time period to an extent.

When a fundamental right violation is filed in the Supreme Court, the process may consume a lot of time. However, if the Human Rights Commission is approached for the same purpose, redress can be obtained without any difficulties or expenditures.

How can the Legal Aid Commission Help?

In case of infringement of a fundamental right, the matter needs to be notified forthwith to the Chief Justice via registered post or fax with a copy to the Legal Aid Commission as well. The address of the Legal Aid Commission is given below.

**Legal Aid Commission,
Human Rights Division,
No. 129, Supreme Court Building Complex,
Aluthkade, Colombo 12.
Telephone No. 011 - 3070255
or to any Legal Aid Commission Counters in Sri Lanka.**

Thereafter, the legal officers of the Legal Aid Commission will call the petitioner to collect the necessary details. Subsequently, a fundamental right violation case will be filed.

The important thing related to fundamental right violation cases is that the case should be filed within 30 days from the date of when the violation was committed. If any person is arrested or kept under custody, the case should be filed within thirty days of his release. If the violation is related to unfair appointment or promotion, the deadline should be calculated from the day of such appointment or promotion.

In case of fundamental right infringement, if your monthly income is less than Rupees 25,000/- free legal consultation and retaining the services of lawyers could be provided through the Legal Aid Commission.

However free legal consultation is provided irrespective of the level of income of any person.

Sample Forms for Application of Human Rights Violations

Sample form for Application of Human Rights Violations.

This application is made to the Supreme Court of democratic socialist republic of Lanka as per the Articles 17 & 126 of the Constitution.

Name and address of the petitioner

Petitioner

Vs

1. Name and address of the opponent
2. Name and address of the opponent
3.
4. Hon. Attorney General,
Attorney General's Department,
Hulftsdorp, Colombo 12.

Respondents

For the attention of H/L chief justice and other justices
On Day of (Months),(Year)

1. Particulars about the petitioner in brief
(Whether the petitioner citizen of Sri Lanka, occupation, age and number of children if married)
2. Brief details about 1st, 2nd and 3rd opponents and their occupations
3. Details about fundamental rights infringed
 - I. Name of the infringer
 - II. Date, time and place
 - III. Method of infringement
- IV. Which Article/s of the Constitution guarantee the infringed right (not mandatory)
- V. The redress and reparation claimed
Telephone number of the petitioner and his close relatives

Signature.

Model Form

Date:

H/L. Chief Justice,
Supreme Court,
Superior court,
Building Complex,
Hulftsdorp,
Colombo 12.

1. Name of the petitioner
2. Address
3. Telephone No. (of the petitions and his relatives)
4. Occupation and monthly income
5. Nature of the fundamental rights violation
6. If there is a marginalization, the name and designation of head of the relevant organization
7. Date and time in which the person produced before the court or release by police
8. Whether any injuries were taking place during detention? Whether the cause of such injury brought to the attention to the court or medical officers/JMO
9. If you were subjected to any torture, did you get admitted to a hospital for the treatment? Otherwise, did you get treatment in any other ways? Particulars related to treatment.
10. Provide the details of the organization connected to this infringement
11. Names and addresses of opponents or respondents
12. Nearest date that you consider the day of infringement
13. Do you wish to have legal remedy?
14. Incident that contribute to the infringement (use a separate sheet if necessary)

.....
Date

.....
Signature

Copy to - Legal Aid Commission,
Human Rights Protection Projects,
No. 129, Hulftsdorp Road, Colombo 12.
Supreme Court Building Complex,
T.P. 0112433618/ 0113070255

LAC Locations

Head Office	011-2433618	Mannar	023-2222045
Akkaraipattu	067-2279462	Marawila	032-2254443
Ampara	063-2223495	Matale	066-2224828
Anuradhapura	025-2224465	Matara	041-2233815
Attanagalla	033-2297020	Mathugama	034-2249262
Awissawella	036-2233857	Mawanalla	035-2247272
Baddegama	091-2292051	Minuwangoda	011-2297790
Badulla	055-2225759	Monaragala	055-2276891
Balangoda	045-2289099	Mt. Lavinia	011-2718708
Balapitiya	091-2255753	Mullaithivu	021-2290077
Bandarawela	057-2224733	Muththur	026-2238777
Battaramulla	011-2877687	Nawalapitiya	054-2224227
Batticaloa	065-2225399	Negombo	031-2281080
Chawakachcheri	021-2270882	Nikaweratiya	037-2260203
Chilaw	032-2222175	Nugegoda	011-2809068
Dambulla	066-2284551	Nuwara Eliya	052-2235260
Deiyandara	041-2268077	Panadura	038-2244822
Deniyaya	041-2271128	Point Pedro	021-2260212
Embilipitiya	047-2230299	Polgahawela	037-2243039
Galgamuwa	037-2253290	Polonnaruwa	027-2226572
Galle	091-2226124	Pothuvil	063-2248485
Gampaha	033-2248804	Pugoda	011-2405333
Hambantota	047-2221092	Ratnapura	045-2226899
Hatton	051-2222390	Tangalle	047-2240122
Hingurakgoda	027-2245521	Thambuththegama	025-2276259
Homagama	011-2748813	Thissamaharama	047-2239611
Horana	034-2265244	Trincomalee	026-2226328
Jaffna	021-2224545	Valachchenei	065-2258349
Kadawatha	011-2922440	Vavuniya	024-2221863
Kaduwela	011-2548150	Walasmulla	047-2245566
Kakirawa	025-2263536	Wallawaya	055-2274466
Kalmunai	067-2223710	Warakapola	037-2277075
Kalutara	034-2222017	Wariyapola	037-2268199
Kandy	081-2388978	Welimada	057-2244860
Kanthale	026-2234521	Mallakam	021-2059170
Kebithigollawa	025-2298101	Puttalam	032-2266636
Kegalla	035-2231790	Siyabalanduwa	055-2279250
Kilinochchi	021-2285618	Dehiattakandiya	027-2250700
Kuliypitiya	037-2284611	LT-Borella	011-2698003
Kurunegala	037-2229641	Galagedara	081-2061025
Mahiyanganaya	055-2258332	Wattala	011-2935907
Maho	037-2275075	Hettipola	037-2291915

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හල්ලේටිස්ටෝර්ස් විදිය, කොළඹ 12.

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